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EXAMINER
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BANTAMOI, ANTHONY

ART UNIT	PAPER NUMBER
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2423

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06/10/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/639,070	<b>Applicant(s)</b> RIEDL, STEVEN E.	
	<b>Examiner</b> ANTHONY BANTAMOI	<b>Art Unit</b> 2423	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22, 28-49 and 55-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 28-49 and 55-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 03/16/2009 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-22, 28-49, and 55-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2002/0144263 to Eldering et al. (Eldering), in view of WO 01/91474 to Kinder et al. (Kinder).

Regarding claim 1, Eldering teaches detecting an indicator indicative of an event in the delivery of the programming content (Para. 0089, ll. 1-2).

In addition Eldering teaches obtaining data descriptive of at least one group of members of the list; and generating at least one programming segment based at least on the data (Para. 0073, entire).

In addition Eldering teaches a list of individual ones of the plurality of user terminals to be targeted (figure 6, entire), further Eldering teaches providing at least one group, the at least one programming segment based on the advertisement group table (Para. 0073-0074).

However, Eldering is silent about in response to the detection of an indicator, generating a list of individual ones of the plurality of user terminals currently receiving the programming content; providing programming segment in lieu of at least a portion of the programming content during the event.

Kinder teaches transmitting of tagged segments including programming and advertisements wherein the demographic information is dynamically updated by a content selector in real time from the receipt of an indication (feedback tags(the tags indicate the current program a user is watching)) so that advertisements can be replaced to reflect the current demographic of viewers (Page 5, lines 6-23, & page 6 lines 5-9) which meets “in response to the detection of an indicator, generating a list of individual ones of the plurality of user terminals currently receiving the programming content; providing programming segment in lieu of at least a portion of the programming content during the event”.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the delivery method of Eldering to include in response to the detection of an indicator, generating a list of individual ones of the plurality of user terminals currently receiving the programming content; providing programming segment in lieu of at least a portion of the programming content during the event as taught by Kinder in order to support dynamic profile generation thereby targeting viewers based on real time information rather old information which may not apply to current targeted group of viewers.

Regarding claim 2, Eldering teaches the method wherein the indicator contains a message which includes the start and end of event (Para. 0057, ll. 11-13).

Regarding claim 3, Eldering teaches the method further comprising identifying available transmission channel in the network and transmitting at least one programming segment over at least one available transmission channel (figure 7, label 701).

Regarding claim 4, Eldering teaches the method wherein the event includes an advertisement break (Para. 0089, ll. 1-2).

Regarding claim 5, Eldering teaches the method wherein the indicator includes a digital program insertion (DPI) cue (Para. 0057, ll. 1-3).

Regarding claim 6, Eldering teaches the method wherein at least one programming segment comprises one or more advertisements (figure 4, entire).

Regarding claim 7, Eldering teaches the method wherein the network includes a two-way multi-channel delivery network (Para. 0045, ll. 15-18).

Regarding claim 8, Eldering teaches the method wherein the network includes a cable TV network (figure 1, entire).

Regarding claim 9, Eldering teaches detecting, in the program stream, a message indicating a scheduled programming segment (Para. 0089, ll. 1-2).

In addition Eldering teaches providing at least one of the data streams to a selected one of the identified groups over the communications network (Para. 0073, entire).

In addition Eldering teaches identifying one or more groups of user terminals within the set of user terminals receiving the program stream (figure 6, entire), further Eldering teaches generating, subsequent to identifying one or more groups of user terminals within the set of user terminals receiving the program stream, one or more data streams containing one or more alternate programming segments for the scheduled programming segment (Para. 0073-0074).

However, Eldering is silent on in response to a detection of the message, identifying a set of user terminals currently receiving the program stream; and generating a content to substitute the scheduled content.

Kinder teaches transmitting of tagged segments including programming and advertisements wherein the demographic information is dynamically updated by a content selector in real time from the receipt of an indication (feedback tags(the tags indicate the current program a user is watching)) so that advertisements can be replaced to reflect the current demographic of viewers (Page 5, lines 6-23, & page 6 lines 5-9) which meets “in response to a detection of the message, identifying a set of user terminals currently receiving the program stream; and generating a content to substitute the scheduled content”.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the delivery method of Eldering to include in response to a detection of the message, identifying a set of user terminals currently receiving the program stream; and generating a content to substitute the scheduled content as taught by Kinder in order to support dynamic profile generation thereby

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targeting viewers based on real time information rather old information which may not apply to current targeted group of viewers.

Regarding claim 10, Eldering teaches the method wherein the scheduled programming segment comprises one or more advertisements (figure 4, entire).

Regarding claim 11, Eldering teaches the method wherein the message includes the start time of the scheduled programming segment (Para. 0057, ll. 11-13).

Regarding claim 12, Eldering teaches the method wherein the message includes a DPI cue (Para. 0057, ll. 1-3).

Regarding claim 13, Eldering teaches the method wherein at least one of the alternate programming segments comprises one or more advertisements (figure 4).

Regarding claim 14, Eldering teaches directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment (Para. 0061, entire).

Regarding claim 15, Eldering teaches where in the one or more groups are identified by analyzing demographic data associated within the user terminal set (figure 9, label 922).

Regarding claim 16, Eldering teaches the method, wherein the one or more groups are identified as a function of at least the number of available transmission channels in the network (figure 6, labels 605, & 607).

Regarding claim 17, Eldering teaches the method wherein the one or more groups are identified also as a function of the number of additional scheduled programming expected to occur concurrently within the scheduled programming segment (Para. 0072, & figure 7, 701).

Regarding claim 18, Eldering teaches the method wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently within the programming stream during the scheduled programming segment (Para. 0072, & figure 7, 701).

Regarding claim 19, Eldering teaches the method wherein the additional program streams utilize a subset of the available transmission channels (figure 7, label 701).

Regarding claim 20, Eldering teaches the method further comprising determining a subset of the available transmission channels for carrying the one or more data streams (figure 5, label 503).

Regarding claim 21, Eldering teaches the method wherein the network includes a two-way multi-channel delivery network” (Para. 0045, ll. 15-18).

Regarding claim 22, Eldering teaches method wherein the network includes a cable TV network (figure 1, entire).

Regarding claim 28, Eldering teaches a detector for detecting an indicator indicative of an event in the delivery of the programming content (Para. 0089, ll. 1-2).

In addition Eldering teaches data being obtained which is descriptive of at least one group of members of the audience; a server for generating at least one programming segment based at least on the data (Para. 0073, entire).



In addition Eldering teaches a list of individual ones of the plurality of user terminals to be targeted (figure 6, entire), further Eldering teaches a mechanism for providing to the at least one group, the at least one programming segment based on the advertisement group table (Para. 0073-0074).

However, Eldering is silent on a processing unit in response to a detection of an indicator, for generating a list of an audience currently receiving the programming content; providing programming segment in lieu of at least a portion of the programming content during the event.

Kinder teaches transmitting of tagged segments including programming and advertisements wherein the demographic information is dynamically updated by a content selector in real time from the receipt of an indication (feedback tags(the tags indicate the current program a user is watching)) so that advertisements can be replaced to reflect the current demographic of viewers (Page 5, lines 6-23, & page 6 lines 5-9) which meets “a processing unit in response to a detection of an indicator, for generating a list of an audience currently receiving the programming content; providing programming segment in lieu of at least a portion of the programming content during the event”.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the delivery method of Eldering to include a processing unit in response to a detection of an indicator, for generating a list of an audience currently receiving the programming content; providing programming segment in lieu of at least a portion of the programming content during the event as taught by

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Kinder in order to support dynamic profile generation thereby targeting viewers based on real time information rather old information which may not apply to current targeted group of viewers.

Regarding claim 29, Eldering teaches the system wherein the indicator contains a message which includes a start time of the event (Para. 0057, ll. 11-13).

Regarding claim 30, Eldering teaches the system wherein available transmission channel in the network are identified, the at least one programming segment being transmitted over at least one of the available transmission channels (figure 7, label 701).

Regarding claim 31, Eldering teaches the system wherein the event includes an advertisement break (Para. 0089, ll. 1-2).

Regarding claim 32, Eldering the system wherein the indicator includes a digital program insertion DPI cue (Para. 0057, ll. 1-3).

Regarding claim 33, Eldering teaches the system wherein at least one programming segment comprises one or more advertisements (figure 4, entire).

Regarding claim 34, Eldering teaches the system wherein the network includes a two-way multi-channel delivery network" (Para. 0045, ll. 15-18).

Regarding claim 35, Eldering teaches the system wherein the network includes a cable TV network (figure 1, entire).

Regarding claim 36, Eldering teaches a module for dynamically assigning transmission channels (figure 7, label 701).

In addition Eldering teaches a detector for detecting, in the program stream, a message indicating a scheduled programming segment (Para. 0089, ll. 1-2).

In addition Eldering teaches a server for generating one or more data streams containing one or more advertisement programming segment for the scheduled programming segment (Para. 0073, entire).

In addition Eldering teaches a mechanism for providing to the at least one data stream over a dynamically assigned transmission channel to a selected one of the identified groups (Para. 0072-0073).

In addition Eldering teaches a server for generating one or more advertisement streams (Para. 0073-0074, & figure 7, label 705).

However, Eldering is silent on a processing unit responsive to a detection of the message, for identifying a set of one or more user terminals which is currently receiving the program stream, and grouping said identified set of one or more terminals into one or more groups based on at least one characteristic; generating one or more alternate programming segments for substituting the scheduled programming segment.

Kinder teaches transmitting of tagged segments including programming and advertisements wherein the demographic information is dynamically updated by a content selector in real time from the receipt of an indication (feedback tags(the tags indicate the current program a user is watching)) so that advertisements can be replaced to reflect the current demographic of viewers (Page 5, lines 6-23, & page 6 lines 5-9) which meets “a processing unit responsive to a detection of the message, for identifying a set of one or more user terminals which is currently receiving the program stream, and grouping said identified set of one or more terminals into one or more

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groups based on at least one characteristic; generating one or more alternate programming segments for substituting the scheduled programming segment”.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the delivery method of Eldering to include a processing unit responsive to a detection of the message, for identifying a set of one or more user terminals which is currently receiving the program stream, and grouping said identified set of one or more terminals into one or more groups based on at least one characteristic; generating one or more alternate programming segments for substituting the scheduled programming segment as taught by Kinder in order to support dynamic profile generation thereby targeting viewers based on real time information rather old information which may not apply to current targeted group of viewers.

Regarding claim 37, Eldering teaches the system wherein the scheduled programming segment comprises one or more advertisements (figure 4, entire).

Regarding claim 38, Eldering teaches the system wherein the message includes the start time of the scheduled programming segment (Para. 0057, ll. 11-13).

Regarding claim 39, Eldering teaches the system wherein the message includes a DPI cue (Para. 0057, ll. 1-3).

Regarding claim 40, Eldering teaches the system wherein at least one of the alternate programming segments comprises one or more advertisements (figure 4, entire).

Regarding claim 41, Eldering teaches directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled

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programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment (Para. 0061, entire).

Regarding claim 42, Eldering teaches the system wherein the one or more groups are identified by analyzing demographic data associated with the user terminal set (Para. 006, ll. 9-11).

Regarding claim 43, Eldering teaches the method wherein the one or more groups are identified as a function of at least the number of available transmission channels in the network (figure 6, labels 605 & 607).

Regarding claim 44, Eldering teaches the method wherein the one or more groups are identified also as a function of the number of additional scheduled programming expected to occur concurrently within the scheduled programming segment (Para. 0072, & figure 7, 701).

Regarding claim 45, Eldering teaches silent about the method wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently within the programming stream during the scheduled programming segment (Para. 0072, & figure 7, 701).

Regarding claim 46, Eldering teaches the method wherein the additional program streams utilize a subset of the available transmission channels (figure 5, label 503).

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Regarding claim 47, Eldering teaches the method further comprising determining a subset of the available transmission channels for carrying the one or more data streams (figure 7, label 701).

Regarding claim 48, Eldering teaches the system wherein the network includes a two-way multi-channel delivery network (Para. 0045, ll. 15-18).

Regarding claim 49, Eldering teaches the system wherein the network includes a cable TV network (figure 1, label 20).

Regarding claim 55, Eldering teaches detecting an indicator indicative of an advertising segment within the programming content (Para. 0089, ll. 1-2).

In addition Eldering teaches (a) deriving a list of a set of the plurality of users which are receiving the programming content during the scheduled presentation of the programming content (figure 6, entire).

In addition Eldering teaches (b) identifying one or more groups within the set of the plurality of users (figure 6, label 605).

In addition Eldering teaches (c) allocating one or more available transmission channels for conveying at least one advertisement data stream, the number of available transmission channels allocated being a function of the number of the groups and the number of program channels being requested by the set of the plurality of users during the scheduled presentation of the programming content (Para. 0072, & figure 6, entire).

In addition Eldering teaches (d) providing, over the allocated one or more transmission channels, the at least one advertisement data stream which contains one

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or more advertisements targeted at a selected group of the set of the plurality of users, within the programming content (Para. 0072-0073, & figure 6, labels 605, & 607).

However, Eldering is silent on, if the detector is detected; providing an alternate content in lieu of providing the advertising segment within the programming content.

Kinder teaches transmitting of tagged segments including programming and advertisements wherein the demographic information is dynamically updated by a content selector in real time from the receipt of an indication (feedback tags(the tags indicate the current program a user is watching)) so that advertisements can be replaced to reflect the current demographic of viewers (Page 5, lines 6-23, & page 6 lines 5-9) which meets "if the detector is detected; providing an alternate content in lieu of providing the advertising segment within the programming content".

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the delivery method of Eldering to include if the detector is detected; providing an alternate content in lieu of providing the advertising segment within the programming content as taught by Kinder in order to support dynamic profile generation thereby targeting viewers based on real time information rather old information which may not apply to current targeted group of viewers.

Regarding claim 56, Eldering teaches the method wherein the indicator contains a message which includes the start time of an advertising segment" (Para. 0089, ll. 1-2).

Regarding claim 57, Eldering teaches the method wherein the indicator includes a DPI cue (Para. 0057, ll. 1-3).

Regarding claim 58, Eldering teaches the method wherein the network includes a two-way multi-channel delivery network (Para. 0045, ll. 15-18).

Regarding claim 59, Eldering teaches the method wherein the network includes a cable TV network (figure 1, label 20).

Regarding claim 60, Eldering teaches a detector for detecting an indicator indicative of an advertising segment within the programming content” (Para. 0089, ll. 1-2).

In addition Eldering teaches a server for allocating one or more available transmission channels for conveying at least one advertisement data stream the number of available transmission channels allocated being a function of the number of the groups and the number of program channels being requested by the audience during the scheduled presentation of the programming content (Para. 0072, & figure 6, labels 603, 605, & 607).

In addition Eldering teaches a mechanism for providing, over the allocated one or more transmission channels, the at least one advertisement data stream which contains one or more advertisements targeted at a selected group of the plurality of users, within the programming content (Para. 0072-0073, & figures 5-7).

In addition Eldering teaches a list identifying one or more groups as a targeted audience (figure 6, entire).

However, Eldering is silent on a processor unit responsive to the detection of the indicator, generating a list of an audience currently receiving the programming content



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during the scheduled presentation of the programming content; providing an alternate content in lieu of the advertising segment within the programming content.

Kinder teaches transmitting of tagged segments including programming and advertisements wherein the demographic information is dynamically updated by a content selector in real time from the receipt of an indication (feedback tags(the tags indicate the current program a user is watching)) so that advertisements can be replaced to reflect the current demographic of viewers (Page 5, lines 6-23, & page 6 lines 5-9) which meets “a processor unit responsive to the detection of the indicator, generating a list of an audience currently receiving the programming content during the scheduled presentation of the programming content; providing an alternate content in lieu of the advertising segment within the programming content”.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the delivery method of Eldering to include a processor unit responsive to the detection of the indicator, generating a list of an audience currently receiving the programming content during the scheduled presentation of the programming content; providing an alternate content in lieu of the advertising segment within the programming content as taught by Kinder in order to support dynamic profile generation thereby targeting viewers based on real time information rather old information which may not apply to current targeted group of viewers.

Regarding claim 61, Eldering teaches the system wherein the indicator contains a message which includes the start time of an advertising segment (Para. 0089, ll. 1-2).

Regarding claim 62, Eldering teaches the system wherein the indicator includes a DPI cue (Para. 0057, ll. 1-2).

Regarding claim 63, Eldering teaches the system wherein the network includes a two-way multi-channel delivery network (Para. 0045, ll. 15-18).

Regarding claim 64, Eldering teaches the system wherein the network includes a cable TV network (figure 1, entire).

Regarding claim 65, Eldering teaches detecting, in the program stream, an indication of a scheduled programming segment (Para. 0089, ll. 1-2).

In addition Eldering teaches identifying one or more groups of user terminals within the set of user terminals receiving the program stream (figure 6, labels 603, 605, & 607).

In addition Eldering teaches generating one or more data streams containing one or more alternate programming segments for the scheduled programming segment; and providing at least one of the data streams to a selected one of the identified groups over the communications network; wherein at least said act of generating is performed without reliance on any of said plurality of user terminals (Para. 0072-0073, & figures 5-7).

In addition Eldering teaches a list identifying one or more groups as a targeted audience (figure 6, entire).

However, Eldering is silent on a processor unit responsive to the detection of the indicator, generating a list of an audience receiving the programming content during the

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scheduled presentation of the programming content; providing an alternate content in lieu of providing the advertising segment within the programming content.

Kinder teaches transmitting of tagged segments including programming and advertisements wherein the demographic information is dynamically updated by a content selector in real time from the receipt of an indication (feedback tags(the tags indicate the current program a user is watching)) so that advertisements can be replaced to reflect the current demographic of viewers (Page 5, lines 6-23, & page 6 lines 5-9) which meets “a processor unit responsive to the detection of the indicator, generating a list of an audience receiving the programming content during the scheduled presentation of the programming content; providing an alternate content in lieu of providing the advertising segment within the programming content”.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the delivery method of Eldering to include a processor unit responsive to the detection of the indicator, generating a list of an audience receiving the programming content during the scheduled presentation of the programming content; providing an alternate content in lieu of providing the advertising segment within the programming content as taught by Kinder in order to support dynamic profile generation thereby targeting viewers based on real time information rather old information which may not apply to current targeted group of viewers.

Regarding claim 66, Eldering teaches the method, wherein said programming content comprises advertising and non-advertising content (Para. 0061, & Para. 0089).

Regarding claim 67, Eldering teaches the method, wherein said at least one similar characteristic comprises a similar demographic (Para. 0075).

Regarding claim 68, Eldering teaches an element adapted to detect a segment within scheduled programming content comprising first advertisements delivered over an individual one of said plurality of transmission channels (Para. 0089, II. 1-2, & figure 5, entire).

In addition Eldering teaches categorize said individual ones of said plurality of users receiving said scheduled programming content into one or more groups (figure 6, labels 603, 605, & 607).

In addition Eldering teaches a server adapted to select one or more of said plurality of transmission channels to convey one or more second advertisements, said second advertisements targeted at one of said one or more groups of said plurality of users (Para. 0072-0073, & figures 4-7).

In addition Eldering teaches ascertain an identity of individual ones of said plurality of users receiving said scheduled programming content (figure 6, entire).

However, Eldering is silent on a processing unit adapted to: responsive to said detection, ascertain an identity of individual ones of said plurality of users receiving said scheduled programming content; and; and a mechanism for selectively replacing said segment within said scheduled programming content comprising first advertisements with said one or more second advertisements.

Kinder teaches transmitting of tagged segments including programming and advertisements wherein the demographic information is dynamically updated by a

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content selector in real time from the receipt of an indication (feedback tags(the tags indicate the current program a user is watching)) so that advertisements can be replaced to reflect the current demographic of viewers (Page 5, lines 6-23, & page 6 lines 5-9) which meets “a processing unit adapted to: responsive to said detection, ascertain an identity of individual ones of said plurality of users receiving said scheduled programming content; and; and a mechanism for selectively replacing said segment within said scheduled programming content comprising first advertisements with said one or more second advertisements”.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the delivery method of Eldering to include a processing unit adapted to: responsive to said detection, ascertain an identity of individual ones of said plurality of users receiving said scheduled programming content; and; and a mechanism for selectively replacing said segment within said scheduled programming content comprising first advertisements with said one or more second advertisements as taught by Kinder in order to support dynamic profile generation thereby targeting viewers based on real time information rather old information which may not apply to current targeted group of viewers.

Regarding claim 69, Eldering teaches detecting a cueing indicator indicative of at least one timing reference associated with an advertising event in the delivery of the programming content (Para. 0089, ll. 1-2).

In addition Eldering teaches generating a list of individual ones of the plurality of user terminals receiving the programming content (figure 6, labels 603, 605, & 607).

In addition Eldering teaches obtaining data descriptive of at least one group of members of the list; providing at least one advertisement based at least on the data; providing, to the at least one group, the at least one advertisement in the programming content (Para. 0072-0073).

In addition Eldering teaches ascertain an identity of individual ones of said plurality of users receiving said scheduled programming content (figure 6, entire).

However, Eldering is silent on in response to a detection of the indicator, generating a list of individual ones of the plurality of user terminals currently receiving the programming content; providing and alternate content in lieu of the scheduled advertising in the programming content.

Kinder teaches transmitting of tagged segments including programming and advertisements wherein the demographic information is dynamically updated by a content selector in real time from the receipt of an indication (feedback tags(the tags indicate the current program a user is watching)) so that advertisements can be replaced to reflect the current demographic of viewers (Page 5, lines 6-23, & page 6 lines 5-9) which meets “in response to a detection of the indicator, generating a list of individual ones of the plurality of user terminals currently receiving the programming content; providing and alternate content in lieu of the scheduled advertising in the programming content”.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the delivery method of Eldering to include in response to a detection of the indicator, generating a list of individual ones of the

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plurality of user terminals currently receiving the programming content; providing and alternate content in lieu of the scheduled advertising in the programming content as taught by Kinder in order to support dynamic profile generation thereby targeting viewers based on real time information rather old information which may not apply to current targeted group of viewers.

Regarding claim 70, Eldering teaches the method, further comprising: identifying available transmission channels in the network; and transmitting the at least one programming segment over at least one of the available transmission channels (Para. 0072, entire).

Regarding claim 71, Eldering teaches the method, wherein the cueing indicator includes a digital program insertion (DPI) cue (Para. 0057, entire).

Regarding claim 72, Eldering teaches the method, wherein the communications network includes a two-way multi-channel delivery network (Para. 0057, entire).

Regarding claim 73, Eldering teaches the method, wherein the communications network comprises a cable TV network (figure 1, entire).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY BANTAMOI whose telephone number is (571)270-3581. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272 7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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